IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 21ST AUGUST 2007 / 30TH SRAVANA 1929

Bail Appl..No. 5015 of 2007()

CMP.2282/2007 of J.M.F.C.-I,ATTINGAL
CRIME NO.25/97 OF CHIRAYINKEEZH POLICE STATION.

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PETITIONER/ACCUSED

SUNILDETH, S/O.SIVADASAN,
AYODHYAYIL, CHITTATTINKARA DESOM,
AVANAVANCHERRY VILLAGE, ATTINGAL,
TRIVANDRUM.

BY ADV. SRI.MILLU DANDAPANI

RESPONDENTS: STATE AND COMPLAINANT

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1. THE STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM, COCHIN-682 031.

2. THE CIRCLE INSPECTOR OF POLICE,
POLICE STATION, CHIRAYINKEEZH,
TRIVANDRUM.

BY P.P. SRI. JAI GEORGE.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 21/08/2007 ALONG WITH B.A.NO.5016/07 AND OTHER CONNECTED CASES, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.Nos. 5015, 5016, 5038,
5039 & 5060 of 2007

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Dated this the 21st day of August, 2007

O R D E R

These applications for regular bail are all filed by the same petitioner. Altogether there are five cases. The petitioner faces indictment for offences punishable under the Kerala Abkari Act in four cases. He faces allegations for the offence punishable under Section 435 I.P.C. in the fifth case. The offences were committed much earlier during the period 1997 - 2000. Investigation is complete in all the crimes. Final reports have already been filed. Cognizance has been taken by the learned Magistrate. The petitioner was not available for trial. In some of the cases the co-accused have already been tried, found not guilty and acquitted. The petitioner surrendered before the learned Magistrate long later on 19.7.2007. His arrest has now been recorded in all the five cases.

2. The learned counsel for the petitioner submits that the petitioner was compelled not to appear before the Court in view of certain unfortunate events which had taken place. There was threat to the life of the petitioner consequent to a hooch tragedy which took

place. The petitioner had come to this Court seeking orders for police protection. Apprehending danger to his life and limb he had to keep away from the locality for some period of time. The learned counsel for the petitioner submits that the petitioner may in these circumstances be released on bail. There is absolutely no necessity to insist on continued detention of the petitioner, except the fact that he has not appeared before the Court for some period of time. Such non-appearance occurred in the light of the facts referred above and in these circumstances continued detention may not be insisted, submits the counsel.

3. The learned Prosecutor opposes the application. The learned Prosecutor submits that the petitioner has avoided the long arms of law for a considerably long period of time and there is no merit in his prayer for immediate release of the petitioner, he having surrendered only on 19.7.2007. The learned Prosecutor in these circumstances submits that the petitioner may not be enlarged on bail.

4. I have considered all the relevant inputs. The cases are now ripe for trial. Pre-trial detention is not punitive in content. I appreciate the anxiety of the learned Prosecutor that the petitioner may not be available for trial later, he having taken the liberty with the law for a period of one

decade now. It will have to be zealously ensured that the petitioner is available for trial before the courts below on all dates of posting hereafter. He must co-operate with the disposal of the cases. Appropriate conditions will have to be imposed to ensure compliance with the above requirements. However, I do not agree that the petitioner must be left to languish in prison until the trial is over in all these cases. Regular bail can be granted to the petitioner subject to appropriate conditions.

5. In the result:

1) This application is allowed.

2) The petitioner shall be released on bail on the following terms and conditions.

(a) The petitioner shall surrender his passport before the learned Magistrate. If he does not have a passport, he shall have to file an affidavit to that effect.

(b) The petitioner shall execute bond for Rs.1,00,000/- (Rupees one lakh only) in each case with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate. He shall also make a cash deposit of Rs.50,000/- in each case.

(c) He shall report before the Dy.S.P., Attingal, on the first and third Sundays of all English calender months between 4 p.m. and 5 p.m. until all cases against him are disposed of.

(R. BASANT)
Judge

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